

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

Mark P. Gardner,	:	
	:	Civil Action
Plaintiff	:	
	:	No.
vs.	:	
	:	Jury Trial Demanded
Lenape Valley Presbyterian Church,	:	
	:	
Defendant	:	

**COMPLAINT**

Mark P. Gardner, by his undersigned counsel, brings this action pursuant to the law cited herein against Lenape Valley Presbyterian Church (“Lenape Valley Church”) seeking relief from illegal race and age discrimination.

**INTRODUCTION**

1. This is an action arising under the Pennsylvania Human Relations Act, 43 Pa. C.S.A. §§ 951, *et seq.* (“PHRA”).

2. Lenape Valley Church rejected Mr. Gardner for a job as Youth Ministry Director because Mr. Gardner is Black/African American and because of Mr. Gardner’s age.

**JURISDICTION AND VENUE**

3. This Court has original jurisdiction to hear this action and adjudicate the claims herein pursuant to 28 U.S.C. § 1332 because:

(a) The matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs; and

(b) The parties are citizens of different States—Mr. Gardner is a citizen of Delaware and Lenape Valley Church is a citizen of Pennsylvania.

4. All jurisdictional prerequisites to bringing this action have been satisfied because:

(a) On September 23, 2019, Mr. Gardner filed a Complaint with the Pennsylvania Human Relations Commission (“PHRC”); and

(b) More than one year has passed since Mr. Gardner filed his Complaint with the PHRC.

5. Venue is appropriate in the Eastern District of Pennsylvania because the cause of action arose in Bucks County, which is in the Eastern District of Pennsylvania, and Lenape Valley Church conducts business in Bucks County.

### **PARTIES**

6. Mr. Gardner is a fifty-eight (58) year old Black African American male residing in Wilmington, Delaware.

7. Lenape Valley Presbyterian Church (“Lenape Valley Church”) is a Pennsylvania non-profit corporation with a principal place of business at 321 West Butler Avenue, New Britain PA 18901.

8. Lenape Valley Church is an employer within the meaning of the PHRA. *See* 43 Pa. Stat. § 954 (“The term ‘employer’ with respect to discriminatory practices based on race, color, age . . . includes religious, fraternal, charitable and sectarian corporations and associations employing four or more persons within the Commonwealth.”).

9. At all relevant times, Lenape Valley Church employed approximately ten (10) employees.

### **FACTS**

#### **Lenape Valley Church**

10. Lenape Valley Church is a member of the [Presbyterian Church \(USA\)](#).

11. The Presbyterian Church (USA) denounces racism:

Racism is the opposite of what God intends for humanity. It is the rejection of the other, which is entirely contrary to the Word of God incarnate in Jesus Christ. Racism is a lie about our fellow human beings, for it says that some are less than others. Because of our biblical understanding of who God is and what God intends for humanity, the PC(USA) must stand against, speak against and work against racism.

See [Presbyterian Church \(USA\) website](#).

12. According to its website, Lenape Valley Church's [Mission](#) is to "Welcome, Inspire, Nurture, and Serve all to become followers of Jesus Christ."

13. Upon information and belief, Lenape Valley Church has between 351 to 500 members.

**Lenape Valley Church Rejects a Qualified Job Applicant Based on Race and Age**

14. In or around May or June 2019, Lenape Valley Church advertised an opening for the full-time position of Youth Ministry Director on Indeed.com.

15. Upon information and belief, the salary for the Youth Ministry Director position was approximately \$41,000.00 per year.

16. In June 2019, Mr. Gardner applied for the Youth Ministry Director position by submitting a cover letter, resume, and reference letters.

17. At the time that Mr. Gardner applied for the Youth Ministry Director position, Mr. Gardner was fifty-six (56) years old.

18. In June 2019, Mr. Gardner was qualified for the Youth Ministry Director position. At the time Mr. Gardner applied for the Youth Ministry Director position, he had been an ordained minister for 28 years and had served as a minister, a hospice chaplain, a boys' youth services chaplain, and as Coordinator of Eastern Diocese Youth Conference of the Church of Christ Holiness USA. Mr. Gardner also had 35 years of experience mentoring and developing children.

19. On July 17, 2019, The Search Team of Lenape Valley Church invited Mr. Gardner to interview for the Youth Ministry Director position on July 31, 2019 at 7:30 p.m., which invitation Mr. Gardner accepted.

20. On July 31, 2019, The Search Team of Lenape Valley Church e-mailed Mr. Gardner to confirm his interview scheduled for 7:30 p.m. that evening. The Search Team of Lenape Valley Church told Mr. Gardner that they were very excited to interview him later that evening.

21. Mr. Gardner responded to The Search Team of Lenape Valley Church's email and stated that he was also excited and confirmed that he would be at the interview.

22. On July 31, 2019, Mr. Gardner traveled with his significant other from his home in Wilmington, Delaware to Lenape Valley Church in New Britain, Pennsylvania, which is approximately 50 miles, for his scheduled interview.

23. Mr. Gardner was excited for his interview and dressed in a suit and tie for his interview.

24. Mr. Gardner's significant other waited in the vehicle while Mr. Gardner went into Lenape Valley Church for his interview.

25. As Mr. Gardner exited his vehicle to enter Lenape Valley Church, he heard a Caucasian woman ask a very white-haired Caucasian man with glasses, "is that him?"

26. Mr. Gardner entered the Lenape Valley Church for his interview, which took place in a conference room.

27. Approximately 10-12 Caucasian individuals made up the Lenape Valley Church interview panel, including Matthias Bell, Bruce Spencer, and approximately 3 minor-aged individuals.

28. Mr. Bell is Pastor Anita Bell's son. Mr. Bell facilitated the interview.

29. At the time of Mr. Gardner's interview, Mr. Spencer was acting on behalf of and as an agent of the Lenape Valley Church.

30. Mr. Gardner's interview lasted approximately 20-25 minutes.

31. Towards the end of Mr. Gardner's interview, Mr. Bell asked the interview panelists, specifically Mr. Spencer, if he would like to share his preference or what he would like to have as Lenape Valley Church's new Youth Ministry Director.

32. Mr. Spencer lifted his head, fixed his eyes on Mr. Gardner, and responded with emphasis and conviction, "**White!**"

33. As averred above, Mr. Gardner is Black.

34. Mr. Spencer's answer appeared to shock the rest of the interview panel.

35. Mr. Bell put his hand over his mouth and asked Mr. Spencer, "why would you say that?" Mr. Spencer responded, "I didn't mean to say that, I meant to say '**young**.'"

36. None of the other interview panelists challenged, corrected, or denounced Mr. Spencer's statement. In fact, some of the other interview panelists laughed.

37. Mr. Gardner became nervous and began to sweat and had to control a shake. Mr. Gardner was very uncomfortable and concerned and became nervous and fearful of his surroundings as he was alone in a room (in an unfamiliar town) with 10-12 Caucasian individuals who appeared to agree with Mr. Spencer's racist and ageist statements.

38. Mr. Bell offered to take Mr. Gardner on a tour of the church. Mr. Bell told Mr. Gardner that he did not know why Mr. Spencer said what he said and apologized to Mr. Gardner. Mr. Bell told Mr. Gardner that he would receive a call.

39. Mr. Gardner exited Lenape Valley Church and went back to his vehicle to make the 50-mile drive home with his significant other. When Mr. Gardner got into his vehicle, his

significant other asked him how the interview went and Mr. Gardner had to tell her what happened.

40. Lenape Valley Church hired a younger Caucasian male for the Youth Ministry Director position.

41. Currently, Lenape Valley Church's Youth Ministry Director is a Caucasian female who is approximately twenty-six (26) years old.

42. Lenape Valley Church did not hire Mr. Gardner for the Youth Ministry Director position because of Mr. Gardner's race and/or color and/or age.

**Count I**  
**Race/Color Discrimination**  
**PHRA**

43. Paragraphs 1 through 42 are incorporated herein by reference as though set forth in full.

44. As alleged above, Mr. Gardner is a Black African American male.

45. As alleged above, in June 2019, Mr. Gardner applied for the Youth Ministry Director position at Lenape Valley Church.

46. As alleged above, Mr. Gardner was qualified for the Youth Ministry Director position because, at the time Mr. Gardner applied for the Youth Ministry Director position, he had been an ordained minister for 28 years and had served as a minister, a hospice chaplain, a boys' youth services chaplain, and as Coordinator of Eastern Diocese Youth Conference of the Church of Christ Holiness USA. Mr. Gardner also had 35 years of experience mentoring and developing children.

47. As alleged above, Lenape Valley Church did not hire Mr. Gardner for the Youth Ministry Director position because of Mr. Gardner's race and/or color.

48. As alleged above, Lenape Valley Church hired a Caucasian individual for the Youth Ministry Director position.

49. Lenape Valley Church violated the PHRA.

50. Lenape Valley Church conduct was intentional, deliberate, willful, and with callous disregard of Mr. Gardner's rights.

51. As a result of Lenape Valley Church's discriminatory actions, practices, procedures, and policies, Mr. Gardner has sustained, and will continue to sustain, economic damages and emotional distress.

52. Mr. Gardner seeks all appropriate remedies under the PHRA.

**Count II**  
**Age Discrimination**  
**PHRA**

53. Paragraphs 1 through 52 are incorporated herein by reference as though set forth in full.

54. As alleged above, in June 2019, Mr. Gardner applied for the Youth Ministry Director position at Lenape Valley Church.

55. As alleged above, at the time that Mr. Gardner applied for the Youth Ministry Director position, Mr. Gardner was fifty-six (56) years old.

56. As alleged above, Mr. Gardner was qualified for the Youth Ministry Director position because, at the time Mr. Gardner applied for the Youth Ministry Director position, he had been an ordained minister for 28 years and had served as a minister, a hospice chaplain, a boys' youth services chaplain, and as Coordinator of Eastern Diocese Youth Conference of the Church of Christ Holiness USA. Mr. Gardner also had 35 years of experience mentoring and developing children.

57. As alleged above, Lenape Valley Church did not hire Mr. Gardner for the Youth Ministry Director position because of Mr. Gardner's age.

58. As alleged above, Lenape Valley Church hired a younger individual for the Youth Ministry Director position.

59. Lenape Valley Church violated the PHRA.

60. Lenape Valley Church conduct was intentional, deliberate, willful, and with callous disregard of Mr. Gardner's rights.

61. As a result of Lenape Valley Church's discriminatory actions, practices, procedures, and policies, Mr. Gardner has sustained, and will continue to sustain, economic damages and emotional distress.

62. Mr. Gardner seeks all appropriate remedies under the PHRA.

WHEREFORE, Mark P. Gardner respectfully requests this Court to:

(1) Issue a Declaratory Judgment declaring that Lenape Valley Church's discriminatory practices are unlawful and violate the PHRA.

(2) Issue equitable/injunctive relief including:

(a) Issue preliminary and permanent injunctions enjoining and restraining Lenape Valley Church, its successors, officers, agents and employees and those acting in participation with Lenape Valley Church, from engaging in any act or practice of discrimination against job applicants and employees in violation of the PHRA;

(b) Order Lenape Valley Presbyterian Church to implement a discrimination policy to accurately reflect the law under the PHRA;

(c) Order Lenape Valley Presbyterian Church to electronically deliver to its employees who work onsite a copy of its discrimination policy and reporting and investigation of same;



(d) Order Lenape Valley Presbyterian Church to provide training on discrimination prevention and related compliance under the PHRA—with the training specifics to be tailored to the problems, deficiencies, and gaps that the evidence shows;

(e) Order Lenape Valley Presbyterian Church to electronically deliver to its employees a copy of the jury verdict and trial court judgment;

(f) Order Lenape Valley Presbyterian Church to report on the manner of compliance with the terms of any final order for non-monetary equitable relief issued under the PHRA—with the reporting specifics to be tailored based on the evidence; and

(g) Order Lenape Valley Church to hire Mr. Gardner upon such terms and conditions as will put Mr. Gardner in the position he would have occupied had Lenape Valley Church not unlawfully discriminated against him.

(3) Enter judgment in favor of Mr. Gardner, and against Lenape Valley Church, for back pay, including wages and fringe benefits.

(4) Enter judgment in favor of Mr. Gardner for front pay in lieu of hiring.

(5) Enter judgment in favor of Mr. Gardner for compensatory damages for emotional distress, mental anguish, humiliation, embarrassment, and concern for his safety.

(6) Award Mr. Gardner reasonable attorney's fees together with the costs of this action.

(7) Award Mr. Gardner pre-judgment and post-judgment interest.

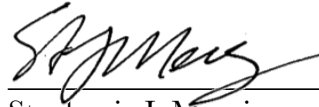
(8) Enter judgment in favor of Mr. Gardner for any other monetary losses as a direct result of Lenape Valley Church violation of the PHRA, including but not limited to negative tax consequence damages.

(9) Issue such orders and further relief as may be necessary and appropriate in order to redress the deprivation of rights and privileges sustained by Mr. Gardner.

**JURY DEMAND**

Mr. Gardner demands a jury to try his claim.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Stephanie J. Mensing', is written over a horizontal line.

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Attorney for Plaintiff

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